

*the CASE of Charles Cottington Esq; the Heir,
and last now living of the Family of the Right Ho-
nourable Francis late Lord Cottington; Humbly of-
fered to the Consideration of Parliament.*

THE said Charles Travelling to Rome in the Year 1671, unhappily upon the Road fell into the Company of *Angela Margareta Galina*, a Chymists Daughter of *Turene* in *Piemont*, with whom he had Conversation many days in their way towards *Rome*.

Angela declaring her self to be a Single Woman of a very great Fortune; took on her the Name of *St. Secundo*, the Name of one of the Honourablest Families of *Italy*; pretended she had made her Elopement from her Relations to meet with a *Bolonecz* of a great Estate, with whom she designed to marry. To which place of meeting (being in *Cottingtons* direct Road) He accompanied her, where being arrived, *Angela* after a little stay, appeared to be very melancholly and discontented, fell into great passions: Of which sudden alteration, *Cottington* enquiring the Reason; She replied, That her intended Marriage was discovered by the Parents of her designed Husband; who to prevent the same, had secured and sent him to *Rome*, so that she was greatly disappointed, wanting necessaries for so long a Journey, and like to be undone, not knowing how to get back again.

Cottington (being Young, and of a compassionate nature) pitying her Condition, offered that what accommodation he had should be at her service till she came to *Rome*; And believing her pretences to be really true, and having by Conversation with her as aforesaid, found her to be a Woman of great Wit, good Behaviour and discourse, and seemingly modest and virtuous; made his Addresses to her, treated her with all kindnesses imaginable, in hopes to prevail with her to marry him when she came to *Rome*, if her designed Husband should not there meet her: which end (after some days Courtship) he attained. She promised him Marriage upon such condition; which Promise was Reciprocal.

At *Rome* *Angela* not meeting her Friend, challenged *Cottington* to perform his Promise, which he held himself obliged in Honour to do; But the noise thereof going about the City, he was clapt up by Cardinal *Barbarine*, Protector of the *English*-Nation, on pretence of kindness, and to prevent the said Marriage. And was then told that *Angela* was the then Wife of one *Patrimoniale Hyacintha Frickignuna*; with which Information being greatly surprized, he immediately sent for her to know the truth thereof, who then (and never before) confessed, That true it was, that by force and in fear of her Father, she was married in the Year 1664 to *Patrimoniale*. But alledged further in justification of her self; that the Arch-bishop of *Turene* had pronounced a Sentence of Nullity of that Marriage, and declared it void in Law. Adding further, That *Cottington* his being clap'd up, was only a Trick to prevent their marriage, set on foot by some who had other Designs upon her. But cunningly insinuated, that she resolved to marry him and no other; assured him the Arch-bishop of *Turene* should join them in Matrimony: And produced a Letter which she pretended was all writ by the said Arch-bishop's own hand, or by his order, wherein he had promised so to do. All which *Cottington* believing, thought himself obliged in Honour to perform his Promise.

To which end he travelled with her to *Turene*, where he no sooner arrived, but he went himself to the Arch-bishop, to desire his Grace to marry them, which he was so far from consenting to do, that he denied his Licence for empowering any other Priest to do the same.

Cottington finding himself thus deceived, resolved to proceed no further; but being

in the Power of her and her Brother and Relations, and having no way to escape from them, went in fear of his life, (which was frequently threatned to be taken from him), till he had in the presence of a Priest contracted himself in marriage with her, the which howbeit he did do, yet would not the Priest consent thereunto, or give his Benediction thereupon.

Cottington bedded her not above Three or Four nights, before he found by too sad experience that he was greatly injured by, and deceived in *Angela*, for that he had contracted himself to a Vicious Person, who then had a very ill Disease upon her. Whereupon he left her Bed, quitted her Company and Conversation, watch'd his opportunity, and as soon as any one offered it self, (and he was in a condition to Travel), made his escape and return'd into *England*, where he had not long been before. *Angela* following, Impleaded him before the Judge of the Arches Court of *Canterbury*, in a cause of Marriage; alledging her Marriage to him the Twelfth of *May*, 1671.

Cottington, in his Defence to that Plea, alledged her Marriage in 1664, with *Patrimoniale*; That she co-habited with him nigh Two Years, had a Child by him, and he still alive; therefore could not be, (nor never was lawfully, or otherwise than by the Contract aforesaid), married to him. To which Allegation, *Angela* being sworn, did upon her Oath confess her Marriage to *Patrimoniale* in *April* 1664, Her living with him one Month at her Fathers, and Nineteen Months at his own house: That she had a Child by him, and that he was then alive; but for defence insinuated, that such Marriage was by force and in fear of her Father; therefore declared Null and Void by the Arch-bishop of *Turene* as aforesaid: which Sentence (or a Copy thereof) she exhibited into the said Court; but no other proceedings in that Cause were produced to justify the same; which other proceedings (especially the examination of Witnesses in that Cause), she would certainly have produced Copies; of (if any such there had been): because when the Commission to *Turene* was granted by the Court of Arches, the Judge of that Court openly declared, That it should be at her peril if she did not produce to that Court a true Copy of the intire Process in her Cause before the Arch-bishop of *Turene*, upon which the Sentence of Nullity was pronounced; which Sentence, it is to be observed, was obtained by Collusion, pronounced and made *ex parte* upon express Conditions: And those Conditions not performed, therefore could not operate or take effect, but is null and void in Law.

The said *Cottington* hopes, and doubts not but all men will be of this opinion and judgment, when they truly understand the Case, which was as followeth, (*viz.*)

Patrimoniale, after his marriage with *Angela*, finding her Incontinency, and the lewdness of her Conversation, and catching her in bed with *Marque Parrell*, resolved to sue forth a Divorce. This resolution being taken, and *Angela* hearing thereof, she with the assistance of her Relations and Friends, for the preservation of her reputation, prevailed with him to cease such prosecution, upon their undertaking to obtain a sentence to make his marriage with her Null and Void.

In order whereunto, *Angela* addressing her self to the aforesaid Arch-Bishop, alledged her marriage to have been by force, and in fear of her Father; and that she never consented thereunto, nor to the Contract in marriage, prayed therefore a sentence of Nullity. Upon which Allegation the sentence aforesaid was pronounced, but was afterwards complained of by the Popes *Nuncio*, to the Sacred Consistory at *Rome*. Notwithstanding, the same was made upon express Condition, that she should swear she never consented in the Contract of marriage, nor to the marriage it self, which to this day she hath not done. She having only made Oath, that she did not consent in the first Contract, but hath not sworn she did not consent to the Marriage it self; which Oath of hers may be true, and yet she consenting to the marriage. The which, 'tis most manifest she did do by her confessed twenty Months Co-habitation with him; and having a Child by him, as aforesaid, without any protestation or complaint of any fear or force she was under, or endeavouring to escape from him all that while; which if she had cause, she might often have done during their Co-habitation; He making several long Journeys, and she frequently visiting Persons of Quality abroad. All which circumstances were in the Cause before the Judge of the Arches, proved by her own Witnesses; so that although it might be supposed, that at the time of her Marriage with *Patrimoniale*, she was under the greatest force imaginable; yet these subsequent Acts do so purge, and take off the pretence of any force and fear in the

Construction of Law, that the Law will not admit of any proof to the contrary.

Nevertheless, *Cottingham's* Cause coming to hearing before the Judge of the Arches here, the said Judge pronounced, that the said *Cottingham* was legally married to the said *Angela*, alledging that he had no power, neither could he by Law either examine or question the Validity of the Arch-Bishop of *Turene's* sentence; but ought notwithstanding any Defects or Nullities therein contained, to give sentence for the second Marriage. Although at the same time he declared, that as he was a private person, he lookt upon that sentence to be irregular and unjust; but as a publick person, and Judge of that Court, must look upon it as good against *Cottingham*, being obliged to look upon all sentences given beyond the Seas, by an equal Court, as good, though they should be otherwise.

Cottingham, finding himself hard prest by this Sentence, Appealed to the Honourable the Courts of Delegates, where he offered an Allegation necessary for his just Defence, and the proving of all the matters aforesaid, the which was Rejected, upon supposition and pretence, that that Court, (though the highest Courts in Causes of this nature), had no power to write a requisitory Letter to the Arch-bishop of *Turene*, to send all the Acts and Proceedings in the Cause of the pretended Nullity speeded in his Court, by which they might upon that Case be fully informed here. Neither had they power to examine or Question his Sentence, whether it were just and according to Law, or null and void. Nevertheless proceeded upon the Sentence of the Judge of the Arches to Condemn the said *Cottingham* to pay the said *Angela* 300*l.* Ally-Money at three payments: the first payment whereof he made: whereupon the admission of his Allegation was again debated, and the same not only rejected for the Reasons before-mentioned, and the Order or Sentence for his payment of the said other 200*l.* re-inforced; but his person for non-payment thereof is since Excommunicated.

Note. Notwithstanding this opinion, that it is the ancient and continued practice of the Ecclesiastical Courts of *England*, That although a man cannot appeal from the Judge of a Superiour, to the Judge of an Inferiour Court; yet if in any Cause depending in any Inferiour Court, a Decree or Judgment made or given by a Superiour Court, shall be pleaded against the Plaintiff in that Inferiour Court; such Plaintiff may before such Inferiour Judge, object a Nullity of such Sentence, Judgment, or Decree; and if he can prove the same, though the Inferiour Judge will not principally take Cognizance of such Nullity; yet will he so pronounce and judge in the Cause before him, as if such Null Sentence or Decree, had never been pleaded. And so by consequence incidently, and in effect pronounce the Judgment, Sentence, or Decree of such Superiour Court, Null and Void, which in *Cottingham's* Case is not done; but on the contrary, the sentence aforesaid given against him, which (as he is advised and believes) is no less than to condemn him to sin against God, during his own, or the said *Angela's* life, by living in Adultery with her who now is the undoubted lawful Wife of the aforesaid *Patrimoniale*.

Cottingham therefore for the preservation of the peace of his Conscience, hath since used all the means possible to satisfy himself whether he might without the hazard of his salvation, conform to the sentence so pronounced, and hath obtained favour from the Right Reverend Father in God, the Lord Bishop of *Lincoln*, and the Reverend *Regius*, and Lady *Margaret*, professors of Divinity in the University of *Oxford*, that they (as also the learned Doctors of *Sorbon*) under their hands have delivered their several opinions; all of them agreeing, that *Cottingham* cannot *salva conscientia* cohabit, with *Angela* as a Wife.

Whereupon *Cottingham* (to prevent his being taken up, and clapt in Gaol upon a Writ *De excommunicato Capiendo*, threatned to be taken out upon the aforesaid Excommunication) confesseth he took upon him to be a servant to *Tho. Wanklyn* Esq; one of the Members of the Honourable House of Commons, and received a Protection from him. Ever since the receipt whereof he is ready to make Oath, he hath almost every day been employed in the negotiating some concerns of his, which Protection he shall not long have occasion to make use of; But declares (and prays the favour of all Gentlemen to believe) he never did procure, insist upon, or make use of at any time, to defraud any person, or to delay the payment of any Debt due from him, or to hinder or retard any proceeding at Law against him by

any person, or upon any account whatsoever, save only as aforesaid, nor made any other use thereof, than to secure him from being cast into prison upon the Excommunication before mentioned.

This therefore being the real and whole truth of his Case, he humbly submits himself and it to the serious Consideration of the Readers, not doubting then their favourable construction of his getting, and hitherto insisting on the said Protection, nor of their continuing a good opinion of *Theo. Wanklyn* Esq; who granted the same only to protect him from living in the sin of adultery; to which he is condemned by a sentence of the Court of Arches, here grounded only upon the sentence of the Archbishop of *Tyrene*, being a Forreign Judicatory.

Cottington upon the Word and Honour of a Gentleman, takes leave to protest and declare, that he never had any Money, Goods, or Jewels of the said *Angela's* pawned for him, except what he himself hath since doubly paid her for; neither was any Protection granted him by the Right Honourable the Lord *Sturton*, made void by the House of Lords; nor did that most Honourable House ever deny him Justice. His Petition having as yet not been delivered, for fear of occasioning a difference between the two Houses of Parliament; so that all those Allegations in *Angela's* Printed Case, are not only false, but scandalous.

For the Defendant
William M. Sturton